

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FIDELITY DEVELOPMENT GROUP LLC,

Defendant.

CASE NO. 3:24-cr-00077

JUDGE: Thomas M. Rose

INFORMATION

42 U.S.C. §§ 7412 and 7413(c)(1)

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this Information,

INTRODUCTORY ALLEGATIONS

1. Congress enacted 42 U.S.C. §§ 7401 et seq. (the Clean Air Act) “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare....” To that end, Congress designated asbestos as a hazardous air pollutant. 42 U.S.C. § 7412(b)(1).

2. Congress found that medical science has established no minimum level of exposure to asbestos fibers which is considered safe to individuals exposed to the fibers. 20 U.S.C. § 3601(a)(3). Thus, Congress authorized the United States Environmental Protection Agency (EPA) under the Clean Air Act to establish the National Emissions Standards for Hazardous Air Pollutants (NESHAP), commonly known as the “work practice standards,” that must be followed to minimize the potential release of asbestos fibers by ensuring the safe and proper handling, removal, and disposal of asbestos during renovation or demolition work. 42 U.S.C. § 7412(h)(1); 40 C.F.R. §§ 61.145, 61.150, 61.154. These work practice standards applied to an owner or operator of a renovation at a facility where the combined

amount of regulated asbestos-containing materials on facility components to be stripped, removed, dislodged, cut, drilled, or similarly disturbed was at least 160 square feet, 260 linear feet, or 35 cubic feet. 40 C.F.R. § 61.145(a).

3. Prior to commencement of the renovation or demolition, owner and operators had to thoroughly inspect the facility or part of the facility where renovation or demolition will occur for the presence of asbestos. 40 C.F.R. § 61.145(a)

COUNT 1
Failure to Thoroughly Inspect
[42 U.S.C. §§ 7412 and 7413(c)(1)]

In or about March 2020, in the Southern District of Ohio, defendant FIDELITY DEVELOPMENT GROUP LLC, the owner and operator of a renovation at the Fidelity Medical Building (the “Fidelity Building”), located at 211 South Main Street in Dayton, Ohio, knowingly failed to thoroughly inspect the Fidelity Building for the presence of asbestos prior to the commencement of renovation.

In violation of Title 42, United States Code, Sections 7412 and 7413(c)(1).

KENNETH L. PARKER
UNITED STATES ATTORNEY

TODD KIM
ASSISTANT ATTORNEY GENERAL
Environment and Natural Resources Division
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